

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 12-CV-00487-MOC-DCK

DAVID HOLMES, HERTA S. THEBERGE,
MARGUERITE K. POTTER, and the
MARGUERITE K. POTTER REVOCABLE
TRUST, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

**CERTIFICATION AND REPORT OF
FED. R. CIV. P. 26(f) CONFERENCE
AND DISCOVERY PLAN**

BANK OF AMERICA, N.A., in its own
capacity and as successor by merger to BAC
Home Loans Servicing, L.P., SEATTLE
SPECIALTY INSURANCE SERVICES,
INC., in its own capacity and as successor in
interest to COUNTRYWIDE INSURANCE
SERVICES, INC., ILLINOIS UNION
INSURANCE COMPANY, and CERTAIN
UNDERWRITERS AT LLOYD'S
LONDON, including all underwriters who
underwrote force-placed wind insurance
policies for Bank of America, as the insured
during the applicable limitations period and
LLOYD'S UNDERWRITERS AT,
LONDON,

Defendants.

1. Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on **June 27, 2013** by telephone and was conducted by the undersigned counsel for the designated parties in the above-captioned case.

2. Pre-Discovery Disclosures. The information required by Fed. R. Civ. P. 26(a)(1) will be exchanged by **July 11, 2013**.

3. Discovery Plan.

a) Discovery schedule: The Parties propose that fact discovery be completed by **March 31, 2014** and expert discovery be completed by **April 30, 2014**.

b) Discovery Limits:

- 1) Maximum of **20 interrogatories** by each party to any other party.
- 2) Maximum of **20 requests for admission** by each party to any other party.
- 3) Maximum of **20 depositions** by Plaintiffs of all Defendants combined, not including 30(b)(6) depositions and expert depositions, and **20 depositions** by all Defendants combined, not including 30(b)(6) depositions and expert depositions. There is no limit on the number of document requests that may be served by each party. These limits do not apply to the jurisdictional discovery already authorized by the Court in this matter.
- 4) Maximum of **90 hours** for depositions taken pursuant to Fed. R. Civ. P. 30(b)(6) of all Defendants combined.
- 5) The parties reserve their rights to move the Court for permission to serve additional interrogatories or requests for admission or to conduct additional depositions if any party believes such additional discovery is necessary. The parties agree that leave for additional discovery should be granted if a showing of good cause is made.
- 6) The parties agree that, for the purposes of the discovery limitations in this Report only, all Underwriters at Lloyd's are to be considered to be one party/defendant, regardless of how named or described by plaintiffs in the lawsuit. The Defendants named as "Certain Underwriters at Lloyd's, London including all underwriters at Lloyd's London who underwrote force-placed wind insurance policies for Bank of America as the insured during the applicable statute of limitations period" maintain all defenses and arguments as set forth in their previous filings, including in their Answer and Affirmative Defenses.

c) Reports from retained experts under Rule 26(a)(2). The parties propose that reports will be due:

- 1) From Plaintiffs by **February 28, 2014**;
- 2) From Defendants by **April 15, 2014**;
- 3) Supplementations under Rule 26(e) or rebuttal expert reports due by **May 15, 2014**.

4. Other Items.

- a) The Parties request a conference with the Court before entry of the scheduling order.
- b) The Parties propose that all potentially dispositive motions should be filed by **October 15, 2014.**
- c) Settlement:

☐ is likely.

☐ is unlikely

☒ cannot be evaluated at this time

☐ may be enhanced by use of the following ADR procedure:

☐ Mediated Settlement Conference

☐ Binding Arbitration

☐ Judicial Settlement Conference

☐ Other _____

The Parties agree that the above selected ADR procedure would be most useful if conducted:

☐ After resolution of any outstanding dispositive motions, but prior to further discovery;

☐ After an initial round of preliminary discovery to be completed by _____ (date);

☐ After the completion of discovery;

☐ After resolution of summary judgment motions, if any;

☐ Not applicable.

- d) Final lists of witnesses and exhibits under Rule 26(a)(3) are due:

- 1) **45** days before the date upon which the trial is scheduled to commence.

- e) If the case is ultimately tried, trial is expected to take approximately **10 business days.**

- f) The parties have discussed the issue of consent to the jurisdiction of a U.S. Magistrate Judge, and the parties do not consent to the jurisdiction of a U.S. Magistrate Judge at this time.
5. Please identify any other matters regarding discovery or case management which may require the Court's attention (e.g., concerns re: confidentiality, protective orders, etc., unmovable scheduling conflicts)
- The parties agree that the Court should set a deadline to join parties or amend pleadings. The parties propose that the deadline be set at October 1, 2013.
 - The parties will be negotiating and presenting to the Court for approval a Stipulated and [Proposed] Protective Order to govern the production of confidential material produced in connection with this action.
 - Plaintiffs expect to file a motion for class certification. The parties have agreed that any motion for class certification should be filed by **February 28, 2014, that any opposition shall be due by April 15, 2014, and that any reply briefs are due by May 15, 2014.**

Respectfully submitted,

Dated: July 5, 2013

/s/ Joseph C. Hashmall

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*Attorneys for Defendants Named as "Certain
Underwriters at Lloyd's, London including all
underwriters at Lloyd's London who underwrote
force-placed wind insurance policies for Bank of
America as the insured during the applicable
statute of limitations period"*

CERTIFICATE OF SERVICE

I, Joseph C. Hashmall, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 5, 2013.

Dated: July 5, 2013

/s/ Brian M. LaMacchia